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July 5, 2001

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Dr. Jane R. Summerson, EIS Document Manager
M/S 010
U.S. Department of Energy
Office of Civilian Radioactive Waste Management
Yucca Mountain Site Characterization Office
P.O. Box 30307
North Las Vegas, NV 89036-0307

RE: Supplement to the Draft Environmental Impact Statement (SDEIS) for a Geological Repository for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste at Yucca Mountain, Nye County, Nevada

Dear Dr. Summerson:

The Timbisha Shoshone Tribe submits the following comments on the SDEIS for the proposed Yucca Mountain project. Although the Tribe is meeting the July 6th deadline for comments, a request is being made to extend the comment period to August 13 for the Tribe and the general public (see 1. below). If the August 13th extension is granted, then the Tribe may submit additional comments.

The Timbisha Shoshone Tribe would also like to thank Dr. Summerson and other staff from DOE and Bechtel SAIC for consulting with tribal members at the Tribal Office on July 2, 2001.

GENERAL COMMENTS

- 1 • The proposed Yucca Mountain facility for the storage of high level nuclear waste is located approximately 35 miles from the Furnace Creek Trust Parcel of the Timbisha Shoshone Tribe. The Trust land is down-gradient from Yucca Mountain, and contaminated, radioactive groundwater is guaranteed to poison future generations of Timbisha Shoshone tribal members if the Yucca Mountain facility (as described in the DEIS, the SDEIS, and the *Yucca Mountain Science and Engineering Report: Technical Information Supporting Site Recommendation Consideration*) is built. The
- 2 Yucca Mountain project directly affects the fate of the Timbisha Shoshone Tribe. This is why the Timbisha Shoshone Tribe has petitioned the Secretary of the Interior to become an Affected Indian Tribe under the Nuclear Waste Policy Act of 1982.
- 3 • The Timbisha Shoshone Tribe is part of the Western Shoshone Nation. The 1863 Treaty of Ruby Valley between the Western Shoshone Nation and the United States is in full force and effect. Yucca Mountain is western Shoshone Land.

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- 4 • Although transportation issues were not discussed in the SDEIS, the DOE recently informed the Timbisha Shoshone Tribe that the proposed *Carlin/Caliente Bonnie Claire Option* for a rail corridor to Yucca Mountain goes right through the Scotty's Junction Trust Parcel of the Tribe (see attached map). Let it be on record that the Timbisha Shoshone Tribe strongly opposes this proposed rail corridor because of its potential threat to the land, the safety of tribal members, and the adverse effects it would have on the Tribe's economic development. The inadequate, small scale map in the DEIS (p. 6-42) did not show this occurrence, even though *The Timbisha Shoshone Tribal Homeland: A Draft Secretarial Report to Congress to Establish a Permanent Tribal Land Base and Related Cooperative Activities* indicated the location of the proposed Trust land parcel (p. 35) and was published in April 1999, three months before the publication of the DEIS for Yucca Mountain.
- 5 • DOE activities which disturb Western Shoshone cultural sites on Yucca Mountain cannot be mitigated.

SPECIFIC COMMENTS ON THE SUPPLEMENT TO THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (SDEIS)

- 6 1. The comment period of the SDEIS is inadequate, establishing different deadlines for different segments of the public is a violation of NEPA, and there were insufficient hearings for a project of national importance. The Timbisha Shoshone Tribe formally requests that DOE extend the comment period to August 13th for everyone. Since time is critical, it is requested that this matter be remedied as soon as possible.

In the Federal Register announcement of June 29, 2001, DOE states that the August 13 deadline only applies to those "individuals" which were sent the DEIS but were not sent the SEIS at the beginning of the 45 day comment period on May 4, 2001. However, Inyo County branch librarians in Death Valley and Bishop, CA, were sent cover letters dated June 22 with a copy of the SDEIS. The letter stated that comments were due by August 13th. Although the cover letter was addressed to the individual librarian, the SDEIS was actually sent to the library for review by the general public. Thus, if a person reviewed the SDEIS at Bishop or Death Valley, the due date for comments would be August 13th.

- 7... DOE has not informed the citizens of Inyo County that the SDEIS is now available in their public libraries for review, and that the due date is now August 13th. If a member of the public does not use one of these libraries, the due date is July 6th. Even if individuals, organizations, or governmental entities were sent the SDEIS on May 4, wouldn't they have the right to go to the public library in order to further review and comment upon the SDEIS? It is conceivable that members of the general public had time to review the SDEIS from another source, and then go to the Inyo County library to review the SDEIS again, thus giving that person a longer comment period than those who were informed that the due date is July 6th. This creates a situation in which some members of the public have a longer time for review than

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others. It also creates a situation in which the general public is not aware that the SDEIS is available for comment at a public library. At the very least, this violates **Sec. 1506.6 Public Involvement** of NEPA Regulations:

Federal agencies shall:

- (a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures.
- (b) Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected. |

As the above paragraph shows, DOE has created an unfair, narrowly constricted comment period for some members of the public by creating two comment period deadlines, July 6th and August 13th. In addition, the public has not been informed that copies of the SDEIS are now available for review in certain Inyo County libraries and that the due date for comments is August 13th. Since the librarians of the Inyo County branch libraries obtained copies of the SDEIS on behalf of the general public, and not to themselves as individuals, it can only be assumed that the August 13th deadline applies to any member of the general public who reviews the SDEIS at one of these libraries. This confusing and unfair circumstance would not have arisen if the DOE simply set August 13 as the due date for all comments. ***This violation of the spirit and letter of NEPA is a dangerous precedent and should be immediately rescinded with notice to the public in the federal register and the Yucca Mountain website as soon as possible.***

On June 8, the Timbisha Shoshone Tribe participated in a Consolidated Group of Tribes and Organizations (CGTO) meeting with DOE in which the CGTO requested a 60 day comment period extension beyond June 25th. Instead, a mere eleven days were granted during the July 4th holiday period. The complexity of the SDEIS and the numerous voluminous documents referenced make a 90 day comment period barely adequate. This is why the Timbisha Shoshone Tribe formally requests that DOE extend the comment period to August 13th for everyone.

In addition, public hearings on the SDEIS should be conducted across the nation, as was done (to a limited extent) for the Draft EIS. The design changes for the Yucca Mountain nuclear waste facility are national, not local issues. If the SDEIS proposes an argument that these design changes can produce a "safe" nuclear repository, then the transport of nuclear waste to Yucca Mountain would be the recommended scenario. The millions of people who live on or near the nuclear waste transport routes thus have a vested interest in commenting upon these proposed design changes. DOE is constricting public knowledge of the project so that its predetermined goal of opening Yucca Mountain can proceed, no matter what the consequences or dangers.

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- 8 2. The SDEIS is confusing, poorly written, and underemphasizes critical issues in an almost seamless pile of technical data. This ignores *Sec. 1502.8 Writing* in the NEPA regulations: "Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them."

The Tribe made this same comment about the DEIS, but the comment was ignored.

- 9 3. The "flexible design" concept used in this SDEIS, based upon the *Yucca Mountain Science and Engineering Report: Technical Information Supporting Site Recommendation Consideration*, fails to provide the Tribe or the public with a "proposed action" which will not be significantly changed in the near future.

- 10 The *evaluation of impacts* in Section 3 of the SDEIS describes significant components of a project which may not exist six months or a year from now. **Sec. 1502.16 Environmental Consequences** of NEPA is not complied with because a specific
11 project and its alternatives are not described, and thus cannot be evaluated. The Yucca Mountain project is being rushed through for political reasons even though the scientific capability to safely design and implement such an undertaking does not exist.

- 12 4. The Land Use and Ownership section of the SDEIS (p. 3-3) does not acknowledge that Yucca Mountain is still claimed by the Western Shoshone Nation, and thus DOE's claim to land ownership is in dispute. This should be stated in the SDEIS.

- 13 5. In the Environmental Justice Section (p. 3-16), the SDEIS ignores the Yucca Mountain project's disproportionate impacts to the Timbisha Shoshone Tribe, whose Trust lands are either in the path of future radioactive contaminants (Furnace Creek Parcel) or within a proposed rail corridor for Yucca Mountain (the Carlin/Caliente Bonnie Clair Option which bisects the Scotty's Junction Trust Parcel). These impacts should be stated in the SDEIS because they were ignored in the DEIS.

- 14 6. The increased accident potential of the "Waste Handling and Fuel Blending" design change since the DEIS of 1999 is not analyzed.

- 15... Like the DEIS, the SDEIS provides raw data rather than analysis in assessing this current proposal. Important facts are not emphasized, and must be picked out in the unanalyzed data stream. For instance, it is revealed only in the third sentence of the fourth paragraph that *fuel blending* is a new design concept that was not part of the proposed project as described in the DEIS (p. 2-15). Accidents which could occur in the spent nuclear fuel blending inventory pools are not adequately analyzed in Section 3.1.8. By hiding or underemphasizing significant changes and their potential dangers, DOE again chooses to ignore NEPA regulations which state: "Agencies shall reduce excessive paperwork by: ... (f) Emphasizing the portions of the environmental impact

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15 cont statement that are useful to decisionmakers and the public...(Sec. 1500.4 Reducing paperwork).

16 7| The Summary of the SDEIS does not provide a clear explanation of the differences (and their significance and potential dangers) between the project as described in the DEIS and the SDEIS.

Sec. 1502.12 Summary of the NEPA regulations states that "The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice among alternatives)". The above sentence was completely ignored in the SDEIS; only unanalyzed raw data were provided.

17 8| A wind farm is proposed for an area of the Nevada Test site which is culturally and spiritually significant to the Western Shoshone and other Native Americans. If constructed, the wind farm will likely be used to supply the electrical needs of the Yucca Mountain facility.

Even though the wind farm may be directly related to the Yucca Mountain project (SDEIS, 2.3.2.44 Electrical Power), the environmental impacts of the wind farm project are not analyzed in the SDEIS.

18 9| The SDEIS does not acknowledge that the State Engineer of Nevada denied the DOE's request for water rights to supply the Yucca Mountain Project (pp. 2-19 and 3-6) because of threats to the public interest. This was ignored even though the State Engineer made the ruling on February 2, 2000. An analysis of alternative supplies of water should have been included in the SDEIS.

19 10| The description of *Cumulative Impacts* (p.3-22) is completely inadequate. Stating that cumulative impact changes between the DEIS designs and the proposed designs in the SDEIS would be "proportional" or a "20-percent increase" does not explain anything. Cumulative impacts of the present designs of the proposed project need to be evaluated in plain language.

CONCLUSION

Although the SDEIS was supposed to have evaluated new and improved designs for the Yucca Mountain project, the current repository design parameters do nothing to prevent the eventual leakage of radionuclides into the groundwater, thus contaminating the Timbisha Shoshone Homeland for future generations. The question is *when* will the radioactive contaminants leak, not *if*. The dangers of nuclear waste transport for millions of people across the country are also given inadequate analysis.

And as stated above, the Timbisha Shoshone Tribe strongly opposes the Carlin/Caliente Bonnie Claire Option for a rail corridor to Yucca Mountain. This route was planned even though the rail line would bisect the Scotty's Junction Trust

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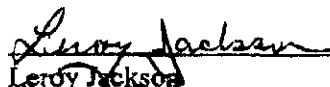
Land of the Timbisha Shoshone Tribe, thus endangering tribal members while destroying the lands of the Tribe. In addition, the Tribe realizes that all routes which would transport high level nuclear waste would be dangerous, just as the Yucca Mountain project itself is dangerous and a threat to future generations. The DOE has not provided any arguments beyond a level of extreme uncertainty that the Yucca Mountain project is safe.

For the reasons stated above, the SDEIS is inadequate and is not in compliance with NEPA.

Sincerely,



Bill Helmer
EPA Program Director
Timbisha Shoshone Tribe

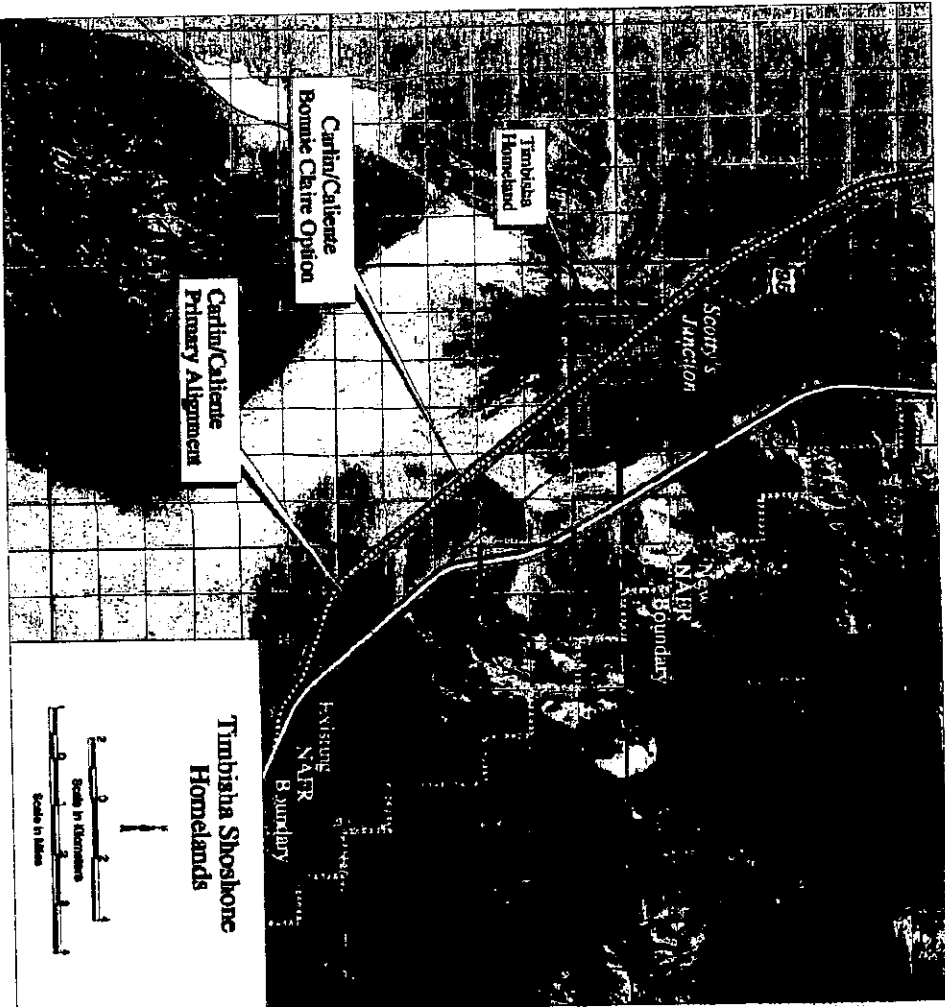


Leroy Jackson
Acting Chairperson
Timbisha Shoshone Tribal Council

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Rail Corridor Alignments near Scotty's Junction

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